§ 723.509 Limitation of subpart to 1994 production.

Notwithstanding any other provision of this subpart, the requirements and provisions of this subpart shall not apply to cigarettes produced after December 31, 1994.

Signed at Washington, DC, on November 21, 1995.

Bruce R. Weber,

Administrator, Consolidated Farm Service Agency.

[FR Doc. 95–29171 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–05–P

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 810

RIN 0580–AA14

United States Standards for Corn

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is revising the United States Standards for Corn to: report test weight (TW) to the nearest tenth of a pound; eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight; and offer stress crack testing as official criteria.

The objective of these revisions is to ensure that the corn standards are serving their intended purpose to facilitate the marketing of corn.

EFFECTIVE DATE: September 1, 1996.

Availability: Stress crack testing will be available January 1, 1996.

FOR FURTHER INFORMATION CONTACT: George Wollam, USDA, GIPSA, room 0623, South Building, P.O. Box 96454, Washington, D.C. 20090–6454; telephone (202) 720–0292; FAX (202) 720–4628.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Department is issuing this rule in conformance with Executive Order 12866.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. The United States Grain Standards Act (Act) provides in section 87g that no State or subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act Certification

James R. Baker, Administrator, GIPSA, has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities. Further, the regulations are applied equally to all entities.

Background

During October 1993, the Federal Grain Inspection Service (FGIS), which is now part of GIPSA, prepared a discussion paper concerning the U.S. Standards for Corn. This paper addressed a number of issues relating to the corn standards and served as a starting point for discussions with producers, trade associations, processors, handlers, and merchandisers to better understand their views on changes needed to improve existing standards. It was distributed throughout the grain industry. FGIS received positive response from the grain industry.

On February 22, 1995, GIPSA proposed in the Federal Register (60 FR 9790) to revise the United States Standards for corn to: (1) report TW to the nearest tenth of a pound; (2) eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight; and (3) offer stress crack testing as official criteria. Furthermore, GIPSA sought comments not only on the proposal to offer stress crack testing as official criteria, but also on the reporting method.

GIPSA officials discussed the proposed revisions to the corn standards at the Grain Quality Workshops and presented the stress crack testing proposal at the Grain Quality Conference organized by the University of Illinois.

Comment Review

During the 60-day comment period, GIPSA received fifteen comments: four from grain handlers, three from corn producers, three from corn processors, two from official inspection agencies, two from foreign buyers, and one from academia.

On the basis of these comments received during the comment period and other available information, GIPSA has decided to enact the changes as proposed.

TW Per Bushel

TW per bushel is the weight per Winchester bushel (2,150.42 cubic inches) as determined using an approved device according to procedures prescribed in FGIS instructions. TW for corn is determined before the removal of broken corn and foreign material and certificated in whole and half pounds with a fraction of a half pound disregarded. Upon request, TW for corn is reported to the nearest tenth of a pound in addition to the official certification method.

Reporting TW in corn to the nearest tenth of a pound will bring TW reporting requirements in line with the reporting requirements for other factors such as damaged kernels total and broken corn and foreign material. Another consideration is that nearly all TW results are currently rounded down. For example, under the current reporting method, a scale reading 53.99 pounds per bushel is certified as 53.5 pounds per bushel, which meets the TW grade limit for U.S. No. 3 corn. If the results, however, were rounded to the nearest tenth of a pound, the resultant 54.0 pounds per bushel would meet the grade limit for U.S. No. 2 corn. Usually, the current practice of rounding down causes TW to be underrepresented throughout the marketing channel. Furthermore, the rounding of TW results to the nearest tenth of a pound will not significantly affect the assigned grade since, in most cases, the rounded result will fall within the grade requirement.

Nine commentors supported the proposed change stating that reporting TW to the nearest tenth of a pound is in the best interest of corn producers, will have a positive impact on net farm income, and rounding down in half pound increments has been particularly unfair and sent a negative signal to producers.

Two commentors opposed this change stating that the current rounding method is working satisfactorily; GIPSA has not confirmed that it will have a net beneficial impact on the market or that the current reporting method inhibits the efficient transmission of information on quality; and they are concerned about the reproducibility of results at the tenth of a pound level.

Commentors in support of the proposed action indicate that reporting TW to the nearest tenth pound per bushel will benefit both producers and the general corn market. Further, statistical information provided in the proposed action indicated that the reproducibility of TW results is similar to or better than the reproducibility of other factors reported to the nearest tenth. Therefore, the reproducibility of TW results was considered prior to the proposal.

Based on this information, comments received, and other available information, GIPSA is revising § 810.102, Definition of other terms, by revising section (d), Test weight per bushel, to report TW in corn to the nearest tenth of a pound per bushel.

Stone Count

GIPSA proposed to eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight. Presently, eight or more stones with an aggregate weight in excess of 0.2 percent of the sample are required to assign the Sample Grade designation. This determination is performed before the removal of broken corn and foreign material.

Ten commentors supported the proposed change stating that eliminating the stone count limit and reducing the aggregate weight percent from 0.2 to 0.1 will not have a negative impact on growers, provides a positive signal to foreign buyers, addresses the needs of corn millers without adversely affecting corn farmers, and emphasizes the importance of quality by clearly showing that reducing contamination is desirable.

One opponent stated that elimination of stone count limits is undesirable because having one 15-gram stone in a 1,000-gram sample could make a lot ''Sample Grade'' and one stone is incidental and may be the only stone in the entire lot.

Stones have harmful effects on corn quality and millability. In addition, several corn industry representatives have requested that the count limit on stones be eliminated to encourage the delivery of high quality corn. GIPSA believes that eliminating the stone count limit and reducing the aggregate weight tolerance will facilitate the marketing of corn.

Based on this information, comments received, and other available information, GIPSA is revising § 810.404, Grades and grade requirements for corn, by revising the definition of U.S. Sample Grade by eliminating the count limit on stones and reducing the aggregate weight criteria from more than 0.2 percent by weight to more than 0.1 percent by weight.

Stress Crack Testing Service

GIPSA proposed to offer corn stress crack testing using the Illinois Crop Improvement Association, Identity Preserved Grain Laboratory (IPGL), method as official criteria under the authority of the Act and sought comments on the reporting method for results.

As described by the IPGL, stress crack tests are performed on random subsamples. The kernels are inspected visually on a backlighted lightboard and separated into four categories: no or zero stress cracks; one or single stress cracks; two or double stress cracks; and more than two or multiple stress cracks. The percentage of kernels falling into each category is used to calculate the percentage of total stress cracks and stress crack index as follows:

% TSC = [% single SC + % double SC + % multiple SC]

SCI = [(% single SC) + (% double SC × 3) + (% multiple SC × 5)]

Where SC = stress cracks:

SCI = stress crack index; and

TSC = total stress cracks.

The stress crack index is an indication of the multiplicity of stress cracks in each kernel. The weighting factors indicate that corn kernels with double and multiple stress cracks are more susceptible to breakage than kernels with single stress cracks.

This testing service will be optional and GIPSA will recover the cost of providing this service through the applicable inspection fees as set forth in § 800.71(a) of the regulations.

Corn which contains stress-cracked kernels tends to break apart and, as a result, is undesirable in the corn dry milling, wet milling, and food manufacturing processes. Also, stress cracked kernels indicate that corn has been dried at an excessively high temperature.

Starch recovery, which is an essential component of the wet milling process, is also lower from kernels possessing many stress cracks. To the food manufacturer, stress cracks are of concern because of the adverse effect on soaking, which is an essential component of the manufacturing process.

Cracked corn is also more difficult to store since it is more readily attacked by microorganisms and is difficult to aerate uniformly. Cracked corn can also contribute to increased elevator dust levels and, thus, negatively impact elevator safety and the environment.

Twelve commentors supported this proposal stating that GIPSA can make a significant contribution to market efficiency by offering a standardized stress crack testing service and testing could provide an incentive for improving drying methods which could improve corn quality.

Three commentors opposed this proposal stating that: it is not clear that stress crack testing will improve quality or enhance safety; direct correlation between stress cracks and end-use value have yet to be proven; inexperienced users could make misleading or inappropriate interpretations based on official results; corn processors and grain elevator managers will adopt new discount schedules; the test is currently available from private laboratories; processors are only interested in total stress cracks, not the four categories (single, double, multiple, and total); and GIPSA will not be able to recover the full cost of developing and offering the test.

Several commentors suggested that GIPSA provide educational efforts to inform affected producers, allow testing based on 50 kernels rather than 100 kernels, and permit applicants to specify certification of results to meet their needs.

GIPSA selected the IPGL test method because it meets the basic requirement for online testing. It is quick, easy, and cost effective. In addition, this method is well developed, has been in use successfully for several years, and will impose a minimal cost to the inspection system.

Based on comments received and other available information, GIPSA is offering stress crack testing as an official criteria under the authority of the Act. Total percent stress cracks will be reported. Upon request, stress crack categories (single, double, and multiple) will also be reported. This testing service will be optional. GIPSA will recover the cost of providing this service through the applicable inspection fees as set forth in § 800.71(a) of the regulations.

Miscellaneous Changes

GIPSA proposed to revise the format of the grading chart in § 810.404, Grades and Grade Requirements for Corn, to improve the readability of the grading chart. However, information received from participants in GIPSA's quality control and proficiency training programs and employee suggestion hotline indicate the present chart format is easier to understand than the proposed chart or other recently revised

charts and should not be changed. Based on this information, GIPSA has decided not to adopt the proposed format change.

Final Action

On the basis of these comments and other available information, GIPSA has decided to revise the corn standards as proposed except for revising the format of the grading chart. Pursuant to section 4(b)(1) of the United States Grain Standards Act (7 U.S.C. 76(b)(1)), no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner. Pursuant to that section of the Act, GIPSA has determined that it is in the public interest that the revisions become effective September 1, 1996. This effective date will coincide with the beginning of the 1996 crop year and facilitate domestic and export marketing of corn. Stress crack testing service is provided as official criteria and is not included in the U.S. Standards for Corn. Consequently, this official service will be available on January 1, 1996.

List of Subjects in 7 CFR Part 810

Exports, Grain.

For reasons set out in the preamble, 7 CFR part 810 is amended as follows:

PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

1. The authority citation for part 810 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2067 as amended (7 U.S.C. 71 *et. seq.*)

Subpart A—General Provisions

2. Section 810.102(d) is revised to read as follows:

§ 810.102 Definition of other terms.

* * * * *

(d) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic inches) as determined using an approved device according to procedures prescribed in FGIS instructions. Test weight per bushel in the standards for corn, mixed grain, oats, sorghum, and soybeans is determined on the original sample. Test weight per bushel in the standards for barley, flaxseed, rye, sunflower seed, triticale, and wheat is determined after mechanically cleaning the original sample. Test weight per bushel is recorded to the nearest tenth pound for corn, rye, triticale, and wheat. Test weight per bushel for all other grains, if applicable, is recorded in whole and half pounds with a fraction of a half pound disregarded. Test weight per bushel is not an official factor for canola.

* * * * *

Subpart D—United States Standards for Corn

3. Section 810.404 is revised to read as follows:

§ 810.404 Grades and grade requirements for Corn.

Grade	Minimum test weight per bushel (pounds)	Maximum limits of		
		Damaged kernels		Broken corn and foreign material (percent)
		Heat damaged kernels (percent)	Total (percent)	
U.S. No. 1	56.0	0.1	3.0	2.0
U.S. No. 2	54.0	0.2	5.0	3.0
U.S. No. 3	52.0	0.5	7.0	4.0
U.S. No. 4	49.0	1.0	10.0	5.0
U.S. No. 5	46.0	3.0	15.0	7.0

U.S. Sample Grade

U.S. Sample grade is corn that:

(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or

(b) Contains stones with an aggregate weight in excess of 0.1 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (Crotalaria spp.), 2 or more castor beans (Ricinus communis L.), 4 or more particles of an unknown foreign substance(s)or a commonly recognized harmful or toxic substance(s), 8 or more cockleburs (Xanthium spp.), or similar seeds singly or in combination, or animal filth in excess of 0.20 percent in 1,000 grams; or

(c) Has a musty, sour, or commercially objectionable foreign odor; or

(d) Is heating or otherwise of distinctly low quality.

Dated: November 14, 1995.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 95–29118 Filed 11–28–95; 8:45 am]

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Agricultural Marketing Service

7 CFR Parts 1150, 1205, 1207, 1209, 1210, 1211, 1220, 1230, 1250, 1260, and 1270

[PY–95–004]

Procedure for the Conduct of Referenda in Various Research and Promotion Programs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will remove individual subparts from the Code of Federal Regulations (CFR) covering procedures for the conduct of referenda in research and promotion programs administered by the Agricultural Marketing Service. This action will eliminate recurring CFR printing costs to the programs.

EFFECTIVE DATE: November 29, 1995.

FOR FURTHER INFORMATION CONTACT: Angie Clonts, Standardization Branch, Poultry Division, AMS, USDA, P.O. Box 96456, Room 3944–S, Washington, DC 20090–6456; telephone (202) 720–3506.

SUPPLEMENTARY INFORMATION: This action is authorized under the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501–4513); the Cotton Research and Promotion Act (7 U.S.C. 2101–